

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

RE: Patent Application for	:	Dated:	December 12, 2007
Elmer M. Johnson et al.	:	Art Unit:	3676
Serial No.: 10/604,570	:	Examiner:	Estremsky, Gary Wayne
Filed: July 30, 2003	:	Action:	<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY</b>
For: <b>DOOR SECURITY APPARATUS</b>	:		
	:		
	:		
	:		

USPTO Confirmation No.: 1569  
Attorney Docket No. 1111.03001

To: The Commissioner for Patents  
Mail Stop: Petition  
P.O. Box 1450  
Alexandria, VA 22313-1450

USPTO Petition Attorney of Record: Paul Shanoski

Sir:

The Applicant(s) hereby files a renewed petition under 37 C.F.R. § 1.137 (b) in response to the enclosed Decision on Petition under 37 C.F.R. § 1.181 having a USPTO mail date of October 29, 2007 with a two month response time due date of December 29, 2007 being in response to the original Notice of Abandonment dated May 3, 2007 for Applicant's failure to timely pay the required issue fee and publication fee, within the statutory period of three months from the mailing date of the notice of allowance, enclosed.

Applicant contends that the above referenced application was not in fact intentionally abandoned as a reply was in fact timely filed to A Notice to File Corrected Application papers dated February 1, 2007 that was received subsequent to the original Notice of Allowance dated December 1, 2006. Applicant was under the impression that the Notice to File Corrected Application Papers dated February

1, 2007 with a due date of April 1, 2007 that was subsequent to the Notice of Allowance dated December 1, 2006 with a due date of March 1, 2007, resulted in the Notice to File Corrected Application papers being operational to put a stay on the pending Notice of Allowance, as the Notice to File Corrected Application papers had a due date later than the prior Notice of Allowance due date. In addition, the Notice to File Corrected Application Papers stated that the 60 days response time is required to correct the informalities in the application and if no timely response is received by the USPTO within the non extendable 60 day period (under 37 C.F.R. 1.136(a)) the application will be abandoned on April 1, 2007, with this date being the timetable for avoiding abandonment of the application. As it would not be logical to have a plurality of abandonment dates related to a single patent application, i.e. with the Notice of Allowance abandonment date of March 1, 2007 and a Notice to File Corrected Application Papers abandonment date of April 1, 2007, as there should only be a single abandonment date, in which the applicant assumed would be the later abandonment date, which was in accordance with the USPTO's prior treatment in a similar case the applicant's patent attorney had in the past, which is detailed below.

In addition, the Notice to File Corrected Application Papers states that informalities or amendments may be filed after payment of the issue fee, in referring to 37 C.F.R. § 1.312 that alludes to amendments after allowance, that states in part ..."any amendment filed pursuant to this section must be filed before or with the payment of the issue fee"..., wherein OG notice dated March 23, 2004 waives the requirements of 37 C.F.R. § 1.312, meaning that the amendment can be filed subsequent (after) to the issue fee being paid if it is required by the Office of Patent

Publications. As it would not make sense to have two separate response deadlines to avoid abandonment of the application and Applicant was under the impression that the response to the Notice to File Corrected Application Papers would be timely filed and accepted by the USPTO with a subsequent re-issuance of the notice of allowance as had been past experience in a similar situation, with copies of all the related USPTO correspondence enclosed. As the proper purpose of the original 37 C.F.R. § 1.312 as referred to above, is to prevent potential alterations of matter to the pending patent application once the application has left the examiner that could be fraudulent. Thus as in the patent attorney's prior case described below, any modification to the pending patent application after the examination (prosecution) period must be reviewed by the applicable examiner prior to issue to confirm that the change was proper, with the applicable examiner being in the best position to verify that the "after prosecution change was proper", as opposed to relying upon the publications department to identify the correctness of the change to the patent application after it has left the examiner, wherein the publications department does not have the background in the case that the applicable examiner does. In any case the communication from the publications department in the Notice to File Corrected Application Papers does not make any clear unequivocal express statement that either the earlier Notice of Allowance still is the true abandonment date (making the Notice to File Corrected Application Papers abandonment date superfluous) or that the two due dates are concurrent with the issue fee and publication fee on one date and the revised drawings due on another date. As the way the USPTO handled the patent attorney's similar prior case (described below) made sense with the patent application going back to the applicable examiner for approval of the drawing changes and a subsequent reissue

of the notice of allowance, by working to a single due date at a time on a particular patent application.

In referring to one of our cases being USPTO Application No. 10/248,919 (now issued as U.S. Patent No. 7,192,217) wherein a Notice of Allowance was received with a mail date of November 3, 2005 and a due date of February 3, 2006, a call was received from the Examiner in about Mid January 2006 indicating that the Office of Publications had rejected the application for chart drawings improperly being within the body of the specification and that new drawings adding the charts would need to be submitted as Figures and that there would be a new response time deadline and reissue of the Notice of Allowance once the new drawings were accepted by publications. Subsequent to this, an Office Action was received having a mail date of January 25, 2006 (again during the Notice of Allowance response period) with the January 25, 2006 Office Action also due in 60 days (being due March 25, 2006), thus making its due date subsequent to the Notice of Allowance due date of February 3, 2006, we also received a Withdrawal from Issue letter (under 37 C.F.R. § 1.313) in which case we had not yet paid the issue fee. Subsequent to this we made timely responses to the Office Action dated January 25, 2006 and another Office Action dated April 12, 2006 that resulted in a new Notice of Allowance dated May 26, 2006 with all copies of the related USPTO correspondence enclosed for reference.

Due to our past experience with the previously described pending application (10/248,919) requiring new drawings to be submitted after the notice of allowance, which put a "stay" (temporary withdrawal from issue) on the case until the submitted

replacement drawings were accepted by the USPTO and a replacement Notice of Allowance was issued, which we assumed would be the same sequence of events in the present case (10/604,570). As the OG notice of March 23, 2004 states in part,..."to accept such an amendment as may be required without having to withdraw an application from issue"...thus allowing waiver of 37 C.F.R. § 1.312, i.e. accepting an amendment after payment of an issue fee by the Office of Publications. We would interpret the word "may" in OG notice of March 23, 2004 as making this an optional convenience to avoid the extra administrative work in withdrawing a case from issue and having to reissue a Notice of Allowance, essentially matching the wording in our Notice to File Corrected Application Papers dated February 1, 2007 in the present case.

As we were complying with a response time in the Notice to File Corrected Application Papers dated February 1, 2007 being due April 1, 2007, we were under the assumption that there was no abandonment. In fact as evidence of our diligence and no intent to abandon this case a call was made to Don Fairchild in the Office of Publications on April 4, 2007 to inquire as to our lack of notice regarding the status of the original Notice of Allowance being put on hold (or our receiving a notice of withdrawal from issue under 37 C.F.R. § 1.313), after our timely response to the Notice to File Corrected Application Papers dated February 1, 2007, wherein Don Fairchild indicated he didn't have a response for us at that time and would get back to us, which he did later indicating that we may face abandonment.

In summary, the Notice to File Corrected Application Papers dated February 1, 2007 (being received within the response time window of the original Notice of

Allowance) does not clearly state its 60 day abandonment response deadline overrides or is in conjunction with the original Notice of Allowance 90 day abandonment response deadline, Applicant could have easily paid the issue fee within the original Notice of Allowance 90 day window. However, in relying upon past experience with the USPTO in a similar situation as previously described, wherein the Notice to File Corrected Application Papers response was timely filed with a new Notice of Allowance subsequently issued. In this prior case (10/248,919) wherein the replacement drawings have to be accepted by the USPTO prior to issue (meaning the point in time when the issue fee is actually paid and the application is no longer pending) made sense to us as a logical sequence to follow when an application needs amendment after the notice of allowance, wherein the amendment is accepted and a new Notice of Allowance is issued. If one reads 37 C.F.R. § 1.312 that prohibits amendments after allowance, wherein again the amendment "may" be entered with USPTO approval of the Primary Examiner and approved by the Director, wherein the OG notice dated March 23, 2004 expands this USPTO approval to the Office of Publications still using the word "may" for entering an amendment under 37 C.F.R. § 1.312.

As we have had two cases with this situation wherein an amendment was required after the original Notice of Allowance and in one situation a new Notice of Allowance was issued after USPTO approval of the amendment and in the present case there was no new Notice of Allowance and the case was abandoned by the USPTO as the Notice of Allowance due date passed prior to the Office of Publications later due date, we are not clear on what to do as these two similar cases have been treated differently by the USPTO. In addition, with this being in

conjunction with the use of the word "may" three times in 37 C.F.R. § 1.312, the OG notice dated March 23, 2004, and in the present case Notice to File Corrected Application Papers dated February 1, 2007 in relation to acceptance of amendments after a notice of allowance it would appear that acceptance of amendments after the notice of allowance is an optional convenience to avoid having to withdraw an application from issue eliminating the need to reissue a New Notice of Allowance. It is not unequivocally clear that when the Office of Publications sends out a Notice to File Corrected Application Papers after a Notice of Allowance has been received, with the Notice to File Corrected Application Papers having a due date to prevent abandonment that is later than the Notice of Allowance due date, which due date prevails, is it the later date, the earlier date, or both dates.

Accordingly, as the Applicant had timely complied with the Notice to File Corrected Application Papers as per the previously described similar case indicating no intention to abandon the current patent application, thus making the abandonment wholly unintentional of the present application. Applicant respectfully requests that the current patent application be passed to issue by granting this petition for revival of an application for patent abandoned unintentionally under 37 C.F.R. § 1.137 (b) as the requirements of the aforementioned unintentional abandonment petition have been complied with having the \$770 fee enclosed and previously paying issue and publication fee of \$1,000.00.

Respectfully submitted,

***Roger A. Jackson, Esq.***

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Enclosures:

1. Copy of original Notice of Allowance in the present application dated December 1, 2006.
2. Copy of Notice to File Corrected Application Papers in the present application dated February 1, 2007.
3. Copy of timely response to 2 above.
4. Copy of Notice of Abandonment in the present application dated May 3, 2007.
5. Copy of OG notice dated March 23, 2004.
6. Copy of original Notice of Allowance in the prior application dated November 3, 2005.
7. Copy of Notice of Withdrawal from Issue in the prior application dated January 12, 2006
8. Copy of Office Action in the prior case dated January 25, 2006.
9. Copy of response cover sheet to the Office Action in 8 above.
10. Copy of Office Action in the prior case dated April 12, 2006.
11. Copy of response cover sheet to the Office Action in 10 above.
12. Copy of re-issued Notice of Allowance in the prior case dated May 26, 2006.
13. Copy of Decision on Petition dated October 29, 2007.
14. USPTO transmittal letter for a Petition for Revival of an application for Patent Abandoned Unintentionally under 37 C.F.R. § 1.137 (b).



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

24254 7590 12/01/2006

JACKSON ESQUIRE  
ROGER A. JACKSON  
1115 GRANT STREET  
SUITE G--5  
DENVER, CO 80203-2399

EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 12/01/2006

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,570	07/30/2003	Elmer M. Johnson	1111.03001	1569

TITLE OF INVENTION: DOOR SECURITY APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	03/01/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

- I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,579	07/30/2003	Elmer M. Johnson	1111.03001	1569
34284	7590	62/01/2007	EXAMINER	
JACKSON ESQUIRE			ESTREMSKY, GARY WAYNE	
ROGER A. JACKSON			ART UNIT	PAPER NUMBER
1115 GRANT STREET			3670	
SUITE G-7				
DENVER, CO 80203-2399				
			MAIL DATE	DELIVERY MODE
			02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Serial No. : 10/604570  
Applicant : Johnson  
Filing Date : 7/30/03  
Date Mailed : 2/1/07

## NOTICE TO FILE CORRECTED APPLICATION PAPERS

### *Notice of Allowance Mailed*

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 60 days from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136(a).

See attachment.

*A copy of this notice MUST be returned with the reply. Please address response to  
"Mail Stop Issue Fee, Commissioner for Patents,  
P.O. Box 1450, Alexandria, VA 22313-1450".*

*Don Fairchild*  
Don Fairchild  
Office of Patent Publication  
Phone: 703-308-9250, ext. 126

Application No. 10 604570 Drawings filed 8/12/04

### IDENTIFICATION OF DRAWING DEFICIENCIES

- There is a hole or the image thereof within the illustration. FIG(s) \_\_\_\_\_
- The character of the lines, numbers and letters is poor. FIG(s) \_\_\_\_\_
- The illustration is penetrated or traversed by a solid or broken line that is not intended to be part of the drawing, such as a dark line caused by a flaw in the copying process. FIG(s) \_\_\_\_\_
- An ink stamp or an image obscures part of the illustration. FIG(s) \_\_\_\_\_
- The drawing is marred by black smudges, obliterations, or fax/copier marks. FIG(s) \_\_\_\_\_
- Figure numbers are duplicated or missing. FIG(s) \_\_\_\_\_
- Numbers, letters, or reference characters in the drawing have been crossed out by hand or are illegibly handwritten. FIG(s) \_\_\_\_\_
- The drawing's background shows that the original drawing was made on graph paper or other paper with a pattern or decoration. FIG(s) \_\_\_\_\_
- The FIG. number label is placed in a location that causes the drawing to be read upside down. FIG(s) \_\_\_\_\_
- Data, a reference number, or part of the drawing is truncated or missing.  
FIG(s) 3, 6, 9
- The drawing is continued onto a second page (or more) without proper labeling under 37 CFR 1.81(u)(1). FIG(s) \_\_\_\_\_
- The drawing and/or the FIG. label contain(s) foreign language. FIG(s) \_\_\_\_\_
- Color drawings are present in this application but the following CFR 1.84 (a) requirements have not been met\*:
  - Petition filed
  - Petition fee
  - 3 sets of color drawings
  - Color drawing paragraph

\*If color drawings are not elected, then applicant must respond so stating. Also, references to color drawings in the specification, if any, must be amended.

COMMENTS:

**Acknowledgement Receipt**

The USPTO has received your submission at 16:33:09 Eastern Time on 31-MAR-2007.

No fees have been paid for this submission. Please remember to pay any required fees on time to prevent abandonment of your application.

**eFiled Application Information**

EFS ID	1643608
Application Number	10604570
Confirmation Number	1569
Title	DOOR SECURITY APPARATUS
First Named Inventor	Elmer M. Johnson
Customer Number or Correspondence Address	24254
Filed By	Roger Jackson
Attorney Docket Number	1111.03001
Filing Date	30-JUL-2003
Receipt Date	31-MAR-2007
Application Type	Utility

**Application Details**

Submitted Files	Page Count	Document Description	File Size	Warnings
DoorSecurityDeviceFigs1to3.pdf	1	Drawings	69106 bytes	◆ PASS
DoorSecurityDeviceFigs4to6.pdf	1	Drawings	46316 bytes	◆ PASS
DoorSecurityDeviceFigs7to9.pdf	1	Drawings	68067 bytes	◆ PASS
USPTONoticeToFileCorrectedAppPapersDoorSetDev.pdf	2	Miscellaneous Incoming Letter	771651 bytes	◆ PASS

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.33(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/D/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**If you need help:**

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent e-Filing.
- Send general questions about USPTO programs to the USPTO Contact Center (UCC).
- If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,570	07/30/2003	Elmer M. Johnson	JJ11.036001	1569
34254	7599	05/03/2007		
JACKSON ESQUIRE ROGER A. JACKSON 1115 GRANT STREET SUITE G-7 DENVER, CO 80203-2399			EXAMINER ESTREMSKY, GARY WAYNE	
			ART UNIT 3676	PAPER NUMBER
			MAR. DATE 05/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Notice of Abandonment</b>	Application No.	Applicant(s)
	10/604,570	Elmer M. Johnson
	Examiner ESTREMSKY	Art Unit 3676

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.  
 (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.  
 (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
     (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).  
 (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).  
 (d)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).  
 (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).  
 (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
     The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.  
 (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).  
 (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.  
 (b)  No corrected drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

AG

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

## **Attachment to Notice of Abandonment**

**For questions concerning the notice contact  
Office of Patent Publication  
Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:  
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### **Respond to the Notice of Abandonment by one of the following:**

**1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

**2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

**3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 571-273-8300

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

## **United States Patent and Trademark Office OG Notices: 23 March 2004**

### **Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication**

In preparation of a patent for issuance as a patent grant, if the Office of Patent Publication discovers an error in the text, or drawings of a patent application, including any missing text, or an inconsistency between the drawings and the application papers, the Office of Patent Publication may require an appropriate amendment to the specification or drawings. 37 CFR 1.312, however, does not permit an amendment after the payment of the issue fee without withdrawal of the application from issue.

In order to be able to accept such an amendment as may be required without having to withdraw an application from issue, the Office of Patent Publication is hereby delegated the authority to waive the requirement of 37 CFR 1.312 and accept an amendment filed after the payment of the issue fee.

For information on this notice, contact the Office of Patent Publication at (703) 305-8263.

February 24, 2004

STEPHEN G. MUNIN  
Deputy Commissioner for  
Patent Examination Policy



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

## NOTICE OF ALLOWANCE AND FEE(S) DUE

34254 7590 11/03/2005

EXAMINER

SPAHN, GAY

ROGER A JACKSON, ESQ  
800 PENNSYLVANIA  
SUITE 1504  
DENVER, CO 80203-3185

ART UNIT  
3673

PAPER NUMBER

DATE MAILED: 11/03/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/248,919	03/01/2003	Leslie J. Hanna	1085.02001	8239

TITLE OF INVENTION: BAFFLE APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	02/03/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
**MAILED**  
www.uspto.gov

Roger A. Jackson, Esq.  
800 Pennsylvania  
Suite 1504  
Denver, CO 80203-3185

JAN 12 2006

TECHNOLOGY CENTER 3600

In re Application of:  
Leslie J. Hanna, et.al. :  
Application No. 10/248,919 :  
Filed: March 1, 2003 :  
Attorney Docket No. 1085.02001 :

NOTICE OF WITHDRAWAL  
FROM ISSUE  
UNDER 37 CFR § 1.313

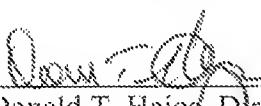
The above-identified application is withdrawn from issue, for reasons to be communicated by the examiner. 37 CFR § 1.313

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner David Bagnell (571)-272-6999.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

  
Donald T. Hajec, Director  
Technology Center 3600

cc: Office of Patent Publication



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/248,919	03/01/2003	Leslie J. Hanna	1085.02001	8230
34254	7590	01/25/2006		
ROGER A JACKSON, ESQ			EXAMINER	
800 PENNSYLVANIA			SPAHN, GAY	
SUITE 1504				
DENVER, CO 80203-3185			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/248,919	HANNA ET AL.
	Examiner Gay Ann Spahn	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1936 C.D. 11, 463 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,5,9,12 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,3,5,9,12 and 14-24 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.86(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  - 1  Certified copies of the priority documents have been received.
  - 2  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date: _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

Application No. 10/248,919

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Patent Application for : Date: March 22, 2006  
Leslie J. Hanna et al. : Art Unit: 3673  
Serial No.: 10/248,919 : Examiner: Spahn, Gay  
Filed: March 1, 2003 : Action: **RESPONSE TO**  
For: **BAFFLE APPARATUS** : **OFFICE ACTION**

Attorney Docket No. 1085.02001  
USPTO Confirmation No. 8230

To: Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated January 25, 2006, please amend  
the above identified application as follows:



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/248,919	03/01/2003	Leslie J. Hanna	1085.02001	8230
24254	7590	04/13/2006		
ROGER A JACKSON, ESQ				EXAMINER
800 PENNSYLVANIA				SPAHN, GAY
SUITE 1504				
DENVER, CO 80203-3185				
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notice of Non-Compliant Amendment (37 CFR 1.121)</b>	Application No.  10/248,919	Applicant(s)  HANNA ET AL.
	Examiner  Gay Ann Spahn	Art Unit  3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 09 March 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

**THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:**

- 1. Amendments to the specification:
  - A. Amended paragraph(s) do not include markings.
  - B. New paragraph(s) should not be underlined.
  - C. Other See Continuation Sheet.
- 2. Abstract:
  - A. Not presented on a separate sheet, 37 CFR 1.72.
  - B. Other \_\_\_\_\_.
- 3. Amendments to the drawings.
  - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - C. Other See Continuation Sheet.
- 4. Amendments to the claims:
  - A. A complete listing of all of the claims is not present.
  - B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Cancelled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - D. The claims of this amendment paper have not been presented in ascending numerical order.
  - E. Other: \_\_\_\_\_.
- 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
  - \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted.
2. Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Part of Paper No. 20060407

Continuation of 1(c) Other: Amendment of specification by paragraphs wherein a strike-through line is drawn through each of "Tables 1-17" does not comply with 37 CFR 1.121 and Applicant should submit either a substitute specification (including clean copy and marked-up copy) or each table should be treated as part of the paragraph above the table per 37 CFR 1.52(b)(6) and applicant should request deletion of each of these paragraphs and add new paragraphs with the text but not the table (no underlining is needed for the addition of a new paragraphs).

Continuation of 3(c) Other: Figure 1 on Replacement Sheet must have "Prior Art" legend inserted therein since it appears to have been inadvertently deleted.



Catherine Dino Barnes  
Primary Examiner

Application No. 10/248,919

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: Patent Application for	:	Date: May 8, 2006
Leslie J. Hanna et al.	:	Art Unit: 3673
Serial No.: 10/248,919	:	Examiner: Spahn, Gay
Filed: March 1, 2003	:	Action: <b>RESPONSE TO</b>
For: <b>BAFFLE APPARATUS</b>	:	<b>OFFICE ACTION</b>

Attorney Docket No. 1085.02001  
USPTO Confirmation No. 8230

To: Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated April 12, 2006, please amend  
the above identified application as follows:



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

## NOTICE OF ALLOWANCE AND FEE(S) DUE

24254 7590 05/26/2006

ROGER A JACKSON, ESQ  
800 PENNSYLVANIA  
SUITE 1504  
DENVER, CO 80203-3185

EXAMINER

SPAHN, GAY

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 05/26/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/248,916	03/01/2003	Leslie J. Hanna	1085.02001	8230

TITLE OF INVENTION: BAFFLE APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	08/28/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
WWW.USPTO.GOV

Paper No.

JACKSON ESQUIRE  
ROGER A. JACKSON  
1115 GRANT STREET  
SUITE G-7  
DENVER CO 80203-2399

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

In re Application of :  
Elmer M. Johnson et al. :  
Application No. 10/604,570 : DECISION ON PETITION  
Filed: July 30, 2003 : UNDER 37 C.F.R. § 1.181  
Attorney Docket No.: 1111.03001 :  
Title: DOOR SECURITY APPARATUS :  
:

This is a decision on the petition filed on July 3, 2007,  
pursuant to 37 C.F.R. § 1.181, requesting that the holding of  
abandonment in the above-identified application be withdrawn.

BACKGROUND

A Notice of Allowance and Issue Fee Due (first notice) was  
mailed on December 1, 2006, which set a three-month period for  
the submission of the issue and publication fees. No extensions  
of time are permitted for transmitting issue or publication  
fees<sup>1</sup>.

On February 1, 2007, the Office mailed a "Notice to File  
Corrected Application Papers - Notice of Allowance Mailed"  
(second notice), which indicated that corrected drawings were  
required. The notice set a two-month non-extendable period for  
response.

As such, the Office set **two concurrent deadlines**: both notices  
indicated that unless Petitioner submitted the issue and  
publication fees by March 1, 2007 and the corrected drawings by  
April 1, 2007, the present application would go abandoned. **Each**  
**of these notices set forth a separate requirement, and each set**  
**a period for response that ran independently of the other.**

<sup>1</sup> See MPEP §710.02(e).

Corrected drawings were received on March 31, 2007. No response to the first notice was received, and accordingly, the above-identified application became abandoned on March 2, 2007. A Notice of Abandonment was mailed on May 3, 2007.

RELEVANT LAW AND PORTIONS OF THE C.F.R.

35 U.S.C. 151 Issue of patent.

If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

37 C.F.R. § 1.134: Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135: Abandonment for failure to reply within time period.

- (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
- (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
- (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

With the present petition, Petitioner has submitted both the issue and publication fees, and has asserted that he was "under the impression" that the second notice "put a stay on the pending" first notice and that a subsequent Notice of Allowability and Issue Fee Due would be issued at a later date<sup>2</sup>.

This understanding was incorrect. As set forth above, each of these notices set forth a separate requirement, and each set a period for response that ran independently of the other.

Petitioner failed to submit the issue and publication fees in a timely manner, and as such, the present application went abandoned by operation of law, pursuant to the law and regulations cited above.

As such, Petitioner has failed to establish that the holding of abandonment should be withdrawn, and this petition must be DISMISSED.

ANALYSIS

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted.

The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b).

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail<sup>3</sup>, hand-delivery<sup>4</sup>, or facsimile<sup>5</sup>. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web<sup>6</sup>.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that

---

2 Petition, pages 1-2. See also page 3.

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

5 (571) 275-8300- please note this is a central facsimile number.

6 <https://sportal.uspto.gov/authenticate/authenticatesuserlocaleuf.html>

appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225<sup>7</sup>. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski  
Senior Attorney  
Office of Petitions  
United States Patent and Trademark Office

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<sup>7</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	Docket Number (Optional) 1111.03001
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First named inventor: Elmer M. Johnson et al.

Application No.: 10/604,570

Art Unit: 3676

Filed: July 30, 2003

Examiner: Estremsky, Gary Wayne

Title: Door Security Apparatus

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

Small entity-fee \$ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in the form of Issue fee transmittal (identify type of reply):

has been filed previously on July 3, 2007 \_\_\_\_\_.  
 is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ 1,000.00 .  
 has been paid previously on July 3, 2007 \_\_\_\_\_.  
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

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/Roger A. Jackson/

Signature

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December 12, 2007

Date

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Roger A. Jackson

Typed or printed name

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44,797

Registration Number, if applicable

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1115 Grant Street, Suite G-7

Address

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303-271-9468

Telephone Number

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Denver, CO 80203-2399

Address

Enclosures:  Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

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December 12, 2007

Date

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/Roger A. Jackson/

Signature

---

Roger A. Jackson

Typed or printed name of person signing certificate

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.